

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

8-12 CV 0190-L

6. CBCS recently paid more than \$1 million to the Federal Trade Commission ("FTC") for violations of FDCPA and FCRA.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

7. R.D. incurred a financial obligation (the "Debt") to a creditor (the "Creditor").

8. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under 15 U.S.C. § 1692a(5).

9. The Debt was purchased, assigned or transferred to CBCS for collection, or CBCS was employed by the Creditor to collect the Debt.

10. CBCS attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. § 1692a(2).

B. CBCS Engages in Harassment and Abusive Tactics

11. R.D. incurred a Debt. **(AT&T Mobility Account No. 307410335)**

12. CBCS began contacting R.D.'s ex-wife, without R.D.'s permission, notifying her of R.D.'s Debt, and attempting to collect the Debt from her. R.D.'s ex-wife informed CBCS that she was divorced to R.D. and that the Debt was incurred by R.D.

13. Despite this, CBCS continued to call R.D.'s ex-wife, notify her of R.D.'s Debt, and attempting to collect the Debt from her.

14. R.D. received a phone call from his ex-wife, asking why CBCS kept calling her about a Debt belonging to R.D. As a result of CBCS's unlawful actions, tensions ignited between R.D. and his ex-wife.

15. The next day, R.D. called CBCS and asked CBCS if they had called his ex-wife. CBCS would not tell R.D. whether or not it had contacted his ex-wife, although knowing it had done so.

16. R.D. asked CBCS what its name was, in which CBCS stated, "C-B-C-S...stands for Credit Bureau Collection Service." CBCS did not state that the communication was from a debt collector, but rather, only stated that the communication was "an attempt to collect a debt and any information will be used for that purpose," and as a result, R.D. believed "Credit Bureau Collection Service" was a consumer reporting agency. "Credit Bureau Collection Service" then told R.D. that if he failed or refused to pay the Debt, his stated reasons for non-payment would

be put on his "credit." CBCS acts and omissions suggested to R.D. that he might endanger his credit rating if he did not immediately pay the Debt.

C. Plaintiff Suffered Actual Damages

17. Plaintiff as assignee of R.D. has suffered damages as a result of CBCS's unlawful conduct.

18. As a direct consequence of CBCS's acts, practices and conduct, R.D. suffered from anger, anxiety, emotional distress, fear and frustration. Communications from CBCS to R.D.'s ex-wife about his Debt caused disputes and relationship problems between R.D. and his ex-wife.

19. CBCS's conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. CBCS's conduct violated 15 U.S.C. § 1692c(b) in that CBCS communicated with individuals other than R.D., R.D.'s attorney, R.D.'s spouse, or a credit bureau.

22. CBCS conduct violated 15 U.S.C. § 1692e(16) in that CBCS employed false and deceptive means to collect a debt, using "Credit Bureau" as part of its company name, deceiving R.D. into believing CBCS was a consumer reporting agency.

23. CBCS conduct violated 15 U.S.C. § 1692e(11) in that CBCS engaged in subsequent communications with R.D., failing to inform him that the communication was from a debt collector, rather, only stating the communication was from "C-B-C-S... in an attempt to collect a debt and any information will be used for that purpose." CBCS's omission that it was a debt collector led R.D. into believing "Credit Bureau Collection Service" was a consumer reporting agency.

24. CBCS does not operate a credit-reporting agency (its parent company does) and is not employed by a credit-reporting agency. CBCS enjoys a competitive advantage over collection agencies with less imposing company names. In drafting the FDCPA, Congress intended "to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged". *Taylor v. Perrin, Landry, deLaunay & Durand*, 103 F.3d 1232, 1234 (5th Cir.1997).

25. Only a true consumer reporting agency (which CBCS is not) may use such names as "Credit Bureau," "Credit Bureau Collection Agency," "General Credit Control," "Credit Bureau Rating, Inc.," or "National Debtor's Rating." *See*, non-binding FTC Official Staff Commentary on the Fair Debt Collection Practices Act, 53 Fed.Reg. 50097 (Dec. 13, 1988). *See also*, *McKenzie v. E.A. Uffman & Assoc., Inc.*, 119 F.3d 358 (5th Cir.1997). Therefore, CBCS conduct violated 15 U.S.C. § 1692e(16) in that CBCS used "Credit Bureau" as part of its company name, falsely representing or implicating that it operates or is employed by a consumer reporting agency as the term is defined by the Fair Credit Reporting Act §603(f).

26. The foregoing acts and omissions of CBCS constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

27. The Plaintiff, as assignee, is entitled to damages as a result of CBCS's violations.

COUNT II
VIOLATIONS OF THE TEXAS DEBT COLLECTION ACT
TEX. FIN. CODE ANN. § 392, et al.

28. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

29. R.D. is a "consumer" as defined by Tex. Fin. Code Ann. § 392.001(1).

30. CBCS is a "debt collector" and a "third party debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6) and (7). CBCS, however, is not a "credit bureau" as defined by Tex. Fin. Code Ann. § 392.001(4).

31. CBCS conduct violated Tex. Fin. Code Ann. § 392.304(a)(5)(B) in that CBCS engaged in subsequent communications with R.D., failing to inform him that the communication was from a debt collector, rather, only stating the communication was from "C-B-C-S... in an attempt to collect a debt and any information will be used for that purpose." CBCS's omission that it was a debt collector later led R.D. into believing CBCS was a "credit bureau."

32. CBCS conduct violated Tex. Fin. Code Ann. § 392.304(a)(19) in that CBCS employed false and deceptive means to collect a debt, *inter alia*, by using "Credit Bureau" as part of its company name, thereby, falsely implying CBCS was a "credit bureau" as the term is defined by Tex. Fin. Code Ann. § 392.001(4).

33. CBCS conduct violated Tex. Fin. Code Ann. § 392.305 in that CBCS used "credit bureau" in its business or trade name, and CBCS is not engaged in "gathering, recording, and disseminating information, both favorable and unfavorable, relating to the creditworthiness, financial responsibility, and paying habits of, and similar information regarding, persons being considered for credit extension so that a prospective creditor can make a sound decision in the extension of credit;" and further, CBCS is not a nonprofit retail trade association. *See, id.*

34. The Plaintiff is entitled to actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(1) and (2) and to remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a).

COUNT III
INVASION OF PRIVACY BY INTRUSION INTO PRIVATE AFFAIRS

35. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

36. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, "One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person."

37. Texas further recognizes a person's right to be free from invasions of privacy, thus CBCS violated Texas state law.

38. CBCS intentionally intruded upon the R.D.'s right to privacy by notifying his ex-wife of his Debt.

39. The conduct of CBCS in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

40. As a result of the intrusions and invasions, Plaintiff as assignee is entitled to actual damages in an amount to be determined at trial from CBCS.

41. All acts of CBCS and its agents were committed with malice, intent, wantonness, and recklessness.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

42. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

43. The acts, practices and conduct engaged in by CBCS *vis-à-vis* R.D. was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

44. The foregoing conduct constitutes the tort of intentional infliction of emotional distress under the laws of the State of Texas.

45. All acts of CBCS and the Collectors complained of herein were committed with malice, intent, wantonness, and recklessness.

PRAYER FOR RELIEF

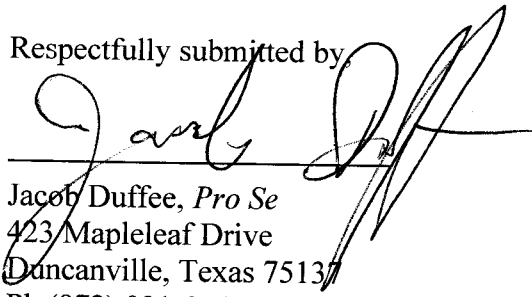
WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendant;
2. Statutory damages of \$1,000.00 for each violation pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendant;
3. Costs of litigation and reasonable attorney's fees (to be incurred) pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendant;
4. Actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(2);
5. Remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a);
6. Actual damages from the Defendant for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial;
7. Such other and further relief as may be just and proper.

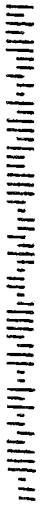
TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 17, 2012

Respectfully submitted by,



Jacob Duffee, *Pro Se*
423 Mapleleaf Drive
Duncanville, Texas 75137
Ph (972) 921-0546
jacobduffee@aol.com



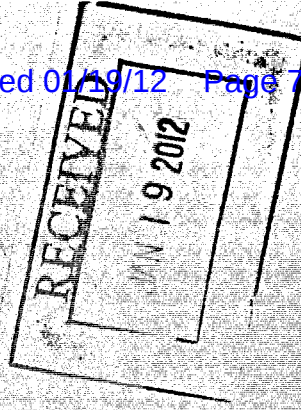
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423 Napelent
Duncarville TX
75137



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US TXND
District Clerk
1100 Commerce St
Room 1452
Dallas TX 75242



JS 44 (Rev. 11/04)

CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JACOB DUFFEE

Assignee of R.D.

(b) County of Residence of First Listed Plaintiff DALLAS
(EXCEPT IN U.S. PLAINTIFF CASES)

3:12 CV 0190 - L

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

CBCS Inc

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

RECEIVED

JAN 19 2012

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FDCPA

Brief description of cause:
Debt collection practices

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/17/2012

SIGNATURE OF APPLICANT

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE